

Translation

PATENT COOPERATION TREATY

PCT/EP2003/002430



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

10 SEP 2004

Applicant's or agent's file reference OZZR0003	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/002430	International filing date (day/month/year) 10 March 2003 (10.03.2003)	Priority date (day/month/year) 12 March 2002 (12.03.2002)
International Patent Classification (IPC) or national classification and IPC A61F 5/02		
Applicant ZOURS, Claudia		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>11</u> sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 11 September 2003 (11.09.2003)	Date of completion of this report 02 July 2004 (02.07.2004)
Name and mailing address of the IPEA/EP Facsimile No.	Authorized officer Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/002430

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____, as originally filed
pages _____, filed with the demand
pages 1, 2, 2a, 3, 4, 5, 6, filed with the letter of 26 November 2003 (26.11.2003)
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages 1-8, filed with the letter of 26 November 2003 (26.11.2003)
- ☒ the drawings:
pages _____, as originally filed
pages _____, filed with the demand
pages 1/2-2/2, filed with the letter of 26 November 2003 (26.11.2003)
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☒ the drawings, sheets/fig _____ Fig. 2

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/02430

I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

Continuation of point 5

1. The two paragraphs recently introduced into the description (page 2, lines 23 to 30, as concerns the statement of object and page 2a, lines 2 to 14, as concerns the solution) with the letter of 25 November 2003 go beyond the disclosure in the application originally filed insofar as the original application does not contain anything to suggest (gradual) training of the patient to cope without the orthotic device. The present report therefore disregards these amendments.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/02430

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations

2. The features in the preamble of claim 1 are known from US-A-3889664 (D5) and DE-U-8907580 (D1), for example. In D5, the threaded spindles 30, 40 (see figures 1 and 5, for example) are considered to be the longitudinally adjustable support rods as per the preamble of claim 1. In D1 (page 4, lines 19 to 23, of the description), these longitudinally adjustable support rods are said to be alternatives to the replaceable support struts (see page 4, lines 6 to 11). In contrast, the holding-down devices 7, 8, 9 and 10, also shown in the figure of D1, cannot be considered support rods since they are intended to prevent "upward displacement of the front part of the chest strap" (see page 4, lines 25, 26) and hence are subject to tension, not pressure; therefore they do not perform a supporting role.

In light of claim 2, the characterizing part of claim 1 is to be interpreted to mean that the support frame additionally **comprises** replaceable reinforcement rods (5) of varying thickness, varying degrees of rigidity and/or varying length, and that these additional replaceable reinforcement rods (5) can be inserted between the hip brace (1) and the

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/02430

thoracic vertebrae brace (2). The present report is based on a claim that has been clarified in this sense (PCT Article 6).

The replaceable reinforcement rods as per the (clarified) characterizing part of claim 1 of the present application provided in addition to the longitudinally adjustable support rods solve the problem of producing a support frame which allows the patient to be gradually trained to cope without the frame, without the frame having to be removed for that purpose. Although the application did not mention this problem originally and therefore it is also impossible to include it subsequently in the application, it can be considered an objective problem. By removing the replaceable reinforcement rods, increasing stress can gradually be placed on the patient's spine, and the patient can gradually be trained to cope without the orthotic device.

The feature whereby the support frame **comprises** replaceable reinforcement rods 5 in addition to the longitudinally adjustable support rods 3 cannot be derived from the available documents. Although D1 mentions longitudinally adjustable support rods and replaceable reinforcement rods, they are suggested as alternatives to each other, not as a combination.

Therefore the (clarified) claim 1 meets the requirements of PCT Article 33(2) and (3).

3. As claims dependent on claim 1, claims 2 to 8 concern advantageous embodiments of the support frame as per claim 1 and hence likewise meet the requirements of PCT Article 33(2) and (3).